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May 4, 2020

District Judge Carol Bagley Amon  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: 1:19-cv-05913-CBA-SMG  
Burke v. Whole Foods Market Group, Inc.

Dear District Judge Amon:

This office represents the plaintiff. On Monday, April 27, 2020, defendant served and filed a motion to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(1) and (b)(6). In accordance with your Honor's Individual Rules of Practice in Civil Cases ("Individual Rules"), plaintiff is required to notify the Court and defendant in writing whether it intends to file an amended pleading and when it shall do so.

Following defendant's filing, plaintiff notified defendant it intended to amend the complaint. Under the federal rules, plaintiff would have until Monday, May 18, 2020 to amend its complaint as of right. Fed. R. Civ. P. 15(a)(1)(B); *Solis v. McAleenan*, No. 19-cv-5383 (S.D.N.Y. Dec. 5, 2019) ("Under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course."); *Martinez v. LVNV Funding, LLC*, No. 14-cv-00677, 2016 WL 5719718, at \*3 (E.D.N.Y. Sept. 30, 2016); *M.E.S., Inc. v. Liberty Mut. Sur. Group.*, No. 10-cv-0798, 2014 WL 46622 (E.D.N.Y. Jan. 6, 2014), \*2 (noting that a plaintiff's amendment as of right in response to defendant's pre-motion letter seeking dismissal "allow[s] for the more efficient use of the Court's time and resources because the Court need only meet with the Parties once...and the need for the motion may be obviated if the amended pleading deals with Defendants' concerns.").

Plaintiff requested, and defendant consented to, an extension of time to file the amended complaint, until Friday, June 26, 2020, which is an extension of 39 days from Monday, May 18, 2020 and a total of 60 days from the date of defendant's filed motion, Monday, April 27, 2020.

Plaintiff requests the Court permit the filing of the amended complaint on or before Friday, June 26, 2020. There have been no previous requests by plaintiff for an extension of time to file the amended complaint. Thank you.

Respectfully submitted,

/s/Spencer Sheehan  
Spencer Sheehan

**Certificate of Service**

I certify that on May 4, 2020, I served and/or transmitted the foregoing by the method below to the persons or entities indicated, at their last known address of record (blank where not applicable).

	CM/ECF	First-Class Mail	Email	Fax
Defendant's Counsel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plaintiff's Counsel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Courtesy Copy to Court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

/s/ Spencer Sheehan